

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

NICHOLAS SEAN CARTER; and
MONICIA PESINA,

Defendants.

Case No. **4:19-CR-6063-SMJ-1, 2**
 2:19-CR-0183-SMJ-1
 2:20-CR-0005-SMJ-1, 2

CRIMINAL MINUTES

DATE: **JUNE 3, 2020**

LOCATION: **RICHLAND**

SUPPRESSION HEARING

Hon. Salvador Mendoza, Jr.		
Cora Vargas Courtroom Deputy	02 Law Clerk	Kimberly Allen Court Reporter
Stephanie Van Marter Government Counsel	Adam Pechtel for Defendant Pesina Nicholas Marchi for Defendant Carter Defense Counsel	
[XX] Open Court	[] Chambers	[] Videoconference

Defendants present, in custody of the US Marshal

Court and counsel discuss schedule and the order in which motions will be argued

CASE NO. 2:19-CR-183-SMJ

Mr. Marchi moves to suppress evidence (ECF No. 33)
Response by Ms. Van Marter

9:00 a.m. Officer Elijah Hayward, Spokane Police Department, Sworn to Testify

Direct examination by Ms. Van Marter

Ms. Van Marter discusses Government Identification No. 2a (body camera footage of Officer Hayward) with witness and moves for admission

No objection by Mr. Marchi

Court: Government Exhibit No. 2a admitted

Exhibit No. 2a published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 2a

[XX] ORDER FORTHCOMING

CONVENED: 8:46 A.M. 10:33 A.M. 1:02 P.M. 3:31 P.M.	ADJOURNED: 10:14 A.M. 11:50 A.M. 3:19 P.M. 4:50 P.M.	TIME: 6:21 HRS.	CALENDARED [XX]
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June 3, 2020

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Suppression Hearing

9:35 a.m. Cross examination by Mr. Marchi

9:45 a.m. Re-direct by Ms. Van Marter

9:48 a.m. Re-cross by Mr. Marchi

Examination of witness by Court

Witness steps down and is excused

9:50 a.m. Officer Corrigan Mohondro, Spokane Police Department, Sworn to Testify

Direct examination by Ms. Van Marter

Ms. Van Marter discusses Government Identification No. 2b (body camera footage of Officer Mohondro) with witness and moves for admission

No objection by Mr. Marchi

Court: Government Exhibit No. 2b admitted

Exhibit No. 2b published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 2b

Recess: 10:14 a.m.

Reconvene: 10:33 a.m.

10:33 a.m. Cross examination by Mr. Marchi

10:39 a.m. Re-direct by Ms. Van Marter

Witness steps down and is excused

10:44 a.m. Officer Austin Toal, Spokane Police Department, Sworn to Testify

Direct examination by Ms. Van Marter

Ms. Van Marter discusses Government Identification No. 2c (body camera footage of Officer Toal) with witness and moves for admission

No objection by Mr. Marchi

Court: Government Exhibit No. 2c admitted

Exhibit No. 2c published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 2c

11:12 a.m. Cross examination by Mr. Marchi

11:17 a.m. Re-direct by Ms. Van Marter

Witness steps down and is excused

Mr. Marchi requests argument be presented after completion of all witness testimony

Court: argument shall proceed on this standalone issue

Argument by Mr. Marchi

Argument in opposition by Ms. Van Marter

Rebuttal argument by Mr. Marchi

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Suppression Hearing

Court: Defendant Carter's Motion Re: Suppression of Evidence, **ECF No. 33**, is **DENIED**

CASE NO. 2:20-CR-0005-SMJ

Comments by Ms. Van Marter regarding Defendants' request for a Frank's Hearing (ECF No. 48)

Argument by Mr. Marchi in support of Defendants' request for a Frank's Hearing
Response in opposition by Ms. Van Marter

Ms. Van Marter moves to admit Government Identification No. 1 (Reports of Investigation and Affidavit in support of Search Warrant (Discovery Pages 10000127-146))

No objection by Mr. Marchi

Court: Government **Exhibit No. 1** admitted

Argument by Ms. Van Marter continues

Rebuttal argument by Mr. Marchi

Argument by Mr. Pechtel

Additional argument by Ms. Van Marter

Court: Defendants' request for a Frank's Hearing and Motion Re Suppression of Evidence, ECF No. 48, is **DENIED**

Recess: 11:50 a.m.

Reconvene: 1:02 p.m.

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Mr. Pechtel withdraws Defendant Pesina's Motion to Suppress Statements filed by way of a joinder (ECF No. 73) in Defendant Carter's Motion to Suppress Evidence and Statements (ECF No. 71)

Court confirms with Defendant Pesina that she wishes to withdraw motion

Defendant Pesina confirms

Court: Defendant Pesina's joinder, **ECF No. 73**, in Defendant Carter's Motion to Suppress Evidence and Statements, ECF No. 71, is **WITHDRAWN**

Mr. Marchi submits Defendant Carter's Motion to Suppress Evidence and Statements, **ECF No. 71**, to the Court on briefing previously filed

Mr. Marchi moves to suppress evidence re: traffic stop (ECF No. 70)

1:12 p.m. Captain William Parramore, Pasco Police Department, Sworn to Testify

Direct examination by Ms. Van Marter

Ms. Van Marter discusses Government Identification Nos. 2b (car camera footage of Captain Parramore) and 3b (body camera footage: traffic - Capt. Parramore) with witness and moves for admission

No objection by Mr. Marchi and Mr. Pechtel

Court: Government Exhibit **Nos. 2b and 3b** admitted

Exhibit No. 2b published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 2b

Exhibit No. 3b published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 3b

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Suppression Hearing

1:57 p.m. Cross examination by Mr. Marchi

2:05 p.m. Cross examination by Mr. Pechtel

2:14 a.m. Re-direct by Ms. Van Marter

Mr. Marchi moves to admit Defendant Carter's Identification Nos. 2001 (Docket for 9Z0542633-PAD Infraction for Monica Pesina) and 2002 (Summary for 9Z542633-PAD Infraction for Monica Pesina)
No objection by Ms. Van Marter

Court: Defendant Carter's **Exhibit Nos. 2001 and 2002 admitted**

2:19 p.m. Re- Cross by Mr. Pechtel

2:20 p.m. Re-cross by Mr. Marchi

2:21 p.m. Additional re-direct by Ms. Van Marter

2:22 p.m. Additional re-cross by Mr. Pechtel

Witness steps down and is excused

Court advises counsel of possible conflict regarding a name mentioned during witness testimony
After discussion with Ms. Pesina, Mr. Pechtel moves the Court to recuse itself

Comments by Ms. Van Marter

Court: Defendant Pesina's oral motion for recusal is **DENIED**

2:30 p.m. Detective Andrew Corral (K9), Pasco Police Department, Sworn to Testify

Direct examination by Ms. Van Marter

Ms. Van Marter discusses Government Identification No. 4 (Affidavit in Support of Search Warrant (Discovery Pages 00000231-259)) with witness and moves for admission

No objection by Mr. Marchi and Mr. Pechtel

Court: Government **Exhibit No. 4 admitted**

Direct by Ms. Van Marter continues regarding Exhibit No. 4, pages 252 – 255

Ms. Van Marter discusses Government Identification Nos. 2c (Car Camera Footage of Det. Corral) and 3c (Body Camera Footage: AXON – Det. Corral) with witness and moves for admission

No objection by Mr. Marchi and Mr. Pechtel

Court: Government **Exhibit Nos. 2c and 3c admitted**

Exhibit No. 2c published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 2c

Exhibit No. 3c published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 3c

Ms. Van Marter and witness discuss Exhibit No. 4, page 237, previously admitted

3:03 p.m. Cross examination by Mr. Marchi

3:07 p.m. Cross examination by Mr. Pechtel

Mr. Pechtel and witness discuss Exhibit No. 3c, previously admitted

Recess: 3:19 p.m.

Reconvene: 3:31 p.m.

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3:32 p.m. Re-direct by Ms. Van Marter

Ms. Van Marter and witness discuss Exhibit No. 3c, previously admitted

3:36 p.m. Re-cross by Mr. Marchi

Examination of witness by Court re: Exhibit No. 3c

3:39 p.m. Additional re-direct by Ms. Van Marter

Witness steps down and is excused

2:30 p.m. Sargent Nathan Carlisle, Pasco Police Department, Sworn to Testify

Direct examination by Ms. Van Marter

Ms. Van Marter discusses Government Identification No. 3a (Body Camera Footage: Field Events - Sgt. Carlisle) with witness and moves for admission

No objection by Mr. Marchi and Mr. Pechtel

Court: Government Exhibit No. 3a admitted

Exhibit No. 3a published to witness

Direct by Ms. Van Marter continues regarding Exhibit No. 3a

4:02 p.m. Cross examination by Mr. Marchi

4:06 p.m. Cross examination by Mr. Pechtel

4:14 p.m. Re-direct by Ms. Van Marter

Witness steps down and is excused

Court: Defendant Carter's Motion to Suppress Evidence and Statements, ECF No. 71, is DENIED

Colloquy between Court and Ms. Van Marter regarding traffic stop

Argument by Mr. Marchi

Argument by Mr. Pechtel

Response in opposition by Ms. Van Marter

Court: Defendants' Motion to Suppress Evidence, ECF No. 70, is TAKEN UNDER ADVISEMENT

Mr. Marchi moves to continue the Pretrial Conference and Trial Dates in case 2:20-CR-0005-SMJ-1,2

No objection by Ms. Van Marter; Ms. Van Marter requests all three cases be reset to the same dates

Mr. Pechtel advises Defendant Pesina does not join in motion at this time, pending further discussion

Colloquy between Court and counsel

Statement of Reasons in Support of the Motion to Continue Trial signed and filed by Defendant Carter

Court: Defendant Carter's oral motion to continue case number 4:20-CR-0005-SMJ is GRANTED - Pretrial Conference is RESET from 6/11/2020 to 8/27/2020 at 9:00 a.m. in Richland; Jury Trial is RESET from 6/22/2020 to 9/28/2020 at 9:00 in Richland. All counsel shall meet and confer as to possible continuance of case numbers 2:19-CR-183-SMJ and 2:19-CR-6063-SMJ.